

REMARKS

By the present amendment, Applicant has amended Claims 1, 10, and 15, cancelled Claims 2 and 6. Claims 2, 8, 14, and 16 remain withdrawn. Claims 1, 4, 5, 7, 9, 11-14, and 17-20 remain pending in the present application. Claims 1, 10, and 15 are independent claims.

In the recent Office Action the Examiner rejected the claims under 35 U.S.C. § 102 (b) as being anticipated by Allen (3,341,644) or under 35 U.S.C. § 103(a) as being unpatentable over Allen ('644) in view of Gravelly, Renner, Snyder, and/or Knoll.

Applicant will advance arguments hereinbelow to illustrate the manner in which the presently amended claims are patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested.

Applicant's arguments will be directed solely to the Allen reference since Allen no longer possesses the claimed structure in independent claims 1, 10, and 15 and the secondary references do not possess any teachings to modify Allen. Applicant notes that the lack of discussion of the teachings of the secondary references is not to be interpreted as acquiescence to the Examiner's positions. Rather, it is an attempt to further the prosecution of the application by overcoming the base reference thereby rendering it moot as to the teachings of the secondary references.

Allen discloses a process for producing plastic containers. In each of the two embodiments disclosed in Figs. 4 and 6, a **plunger 8 or 42**, respectively, is first used to axially deform the plastic sheet or blank 3 or 3'. After the sheet or blank has deformed to the approximate container shape, a vacuum is applied to the space 40 (Fig. 4) to complete the forming process (column 3, lines 62-69).

In view of Allen's requirement of using a plunger, Applicant has specifically amended the independent claims to render the Allen disclosure inappropriate as an anticipatory reference or a base reference that could be modified. Specifically:

- Claim 1 recites that the vacuum forming step **consists of** applying the vacuum and that flower pot is formed **solely by the vacuum**. Since the Allen method requires a plunger step for forming the container it does not "consist of" just the vacuum being the sole method of forming the container.
- Claim 10 has the same language as claim 1 and is likewise distinguishable over the Allen reference.
- Claim 15 recites that the flower pot is formed by a vacuum process wherein the flower pot is **formed solely by the vacuum**.

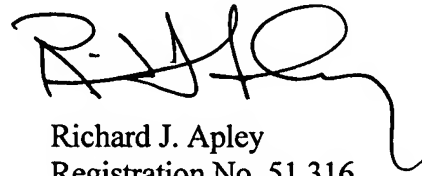
It is further noted that claims 1 and 4 of the Allen reference recite "mechanically pushing" the plastic sheet or blank toward the bottom wall of the cavity; and dependent claim 3 recites that a plunger supplies the mechanical pushing. This claim language corroborates the Applicant's position that Allen's method requires the plunger apparatus and step and can not anticipate or render obvious Applicant's claims to a method consisting of a vacuum process which is the sole method of forming the flower pot.

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For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R. J. Apley', with a long, sweeping horizontal line extending to the right.

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